

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

BENJAMIN KARL SMITH,

Plaintiff,

vs.

D.J. GODFREY, WARDEN
FLETCHER, ASST. WARDEN
POWELL, MR. HENSON, CHAPLIN
DE LELLA, and MR. MADRID,

Defendants.

CV-18-150-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on October 4, 2019. (Doc. 35). Neither party filed objections. The Court reviews for clear error any portion to which no party specifically objected. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Smith filed a complaint alleging that Crossroads Correctional Center violated his various constitutional and statutory rights by refusing to allow him to

attend Jumah Services (Muslim congregational prayer service). (Doc. 2). Defendants were ordered to respond to the Complaint. (Doc 7). Defendant Godfrey filed a waiver of service but explained that a waiver could not be provided for Warden Fletcher because he has not been a warden of the Core Civic prison. (Doc. 12). The Court ordered Smith to show cause why Warden Fletcher should not be dismissed from the action. (Doc. 34). Smith did not respond.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Warden Fletcher is a former warden of the Montana State Prison, and it appears Smith intended to include the warden of Core Civic.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 35) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Warden Fletcher shall be **DISMISSED WITHOUT PREJUDICE** for failure to serve pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

DATED this 1st day of November, 2019.



Brian Morris
United States District Court Judge